

**Notice of Allowability**

Application No.

10/719,646

Examiner

Zoila E. Cabrera

Applicant(s)

LEYERER ET AL.

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed on May 16, 2007.
2. ☒ The allowed claim(s) is/are 1 and 7-17.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

## DETAILED ACTION

### *Allowable Subject Matter*

1. Claim 1 and 7-17 are allowed.

The following is an examiner's statement of reasons for allowance:

a) Based on applicant's arguments and explanation (see Pages 10-12) of the terms used in the claims, i.e., "patient's predisposition" and "said scanned image to be manipulated according to a patient's neurological therapy", such terms are well known terms in the art by a highly trained physician (see Page 8).

b) The allowability of the claims resides, at least in part, that the closest prior art of record **Schaffecutllah (US 2002/0138923 A1)** and **Vindriis (US 7,243,446)** does not disclose or suggest, alone or in combination:

As for independent claim 1, **characterized in that neurological proceptors are placed on the scanner under the patient's foot in accordance with a patient's externally determined predisposition; the proceptors being part of a set of standard proceptors having various dimensions; and the proceptors being identified by markings on their underside, whereby said scanned image contains the identifying markings and the orientation of the preceptors, in combination with the other elements and features of the claimed invention.**

As for independent claim 7, **said at least one of said set of neurological proceptors on said scanner, positioned between said scanner and said underside**

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of said foot in accordance with said patient's predisposition; said proceptors being identified by at least one marking on at least their underside surface; and said scanned image containing at least said identifying marking and an orientation of said proceptors, whereby said working instructions reflect said marking and said orientation and enabling said scanned image to be manipulated according to a patient's neurological therapy prior to said transmitting to said milling machine to produce said therapeutic insole from said blank, in combination with the other elements and features of the claimed invention.

As for independent claim 14, arranging and positioning said selected proceptors under said patient's foot according to said patient's predisposition; scanning said underside of said patient's foot and capturing an image of at least said foot, said proceptors, markings on said proceptors, and an orientation of said proceptors; transmitting said scanned image to a designated computer means; converting and processing said scanned image into at least one set of working instructions for controlling a milling machine, whereby said computer means is programmed with computer steps representing at least said markings and said orientation of said proceptors; and milling a therapeutic insole from a selected prefabricated insole blank in accordance with said working instructions; whereby said working instructions are substantially based on a process of scanned markings and an orientation of said proceptors thereby enabling a milling out of both a contour of said therapeutic insole and a dimension of said

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**preceptors**, in combination with the other elements and features of the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

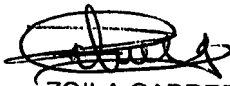
### ***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zoila E. Cabrera whose telephone number is 571-272-3738. The examiner can normally be reached on M-F from 8:00 a.m. to 5:30 p.m. EST (every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard, can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

Zoila Cabrera  
Primary Examiner  
August 17, 2007

  
ZOILA CABRERA  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 2100

8/17/07